

SA 3869. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, supra; which was ordered to lie on the table.

SA 3870. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, supra; which was ordered to lie on the table.

SA 3871. Ms. WARREN (for herself, Mr. DAINES, Mr. KING, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, supra; which was ordered to lie on the table.

SA 3872. Ms. WARREN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, supra; which was ordered to lie on the table.

SA 3873. Ms. WARREN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, supra; which was ordered to lie on the table.

SA 3874. Ms. WARREN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, supra; which was ordered to lie on the table.

SA 3875. Ms. WARREN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, supra; which was ordered to lie on the table.

SA 3876. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 3868.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title X, insert the following:

### SEC. 1. THRESHOLD FOR REPORTING ADDITIONS TO TOXICS RELEASE INVENTORY.

(a) IN GENERAL.—Section 7321 of the PFAS Act of 2019 (15 U.S.C. 8921) is amended—

(1) in subsection (b)—

(A) by striking paragraph (2);

(B) by striking the subsection designation and heading and all that follows through “Subject” in the matter preceding subparagraph (A) of paragraph (1) and inserting the following:

“(b) IMMEDIATE INCLUSION.—Subject”;

(C) in subparagraph (B), by striking “subparagraph (A)” and inserting “paragraph (1)”;

(D) in subparagraph (D), by striking “subparagraph (C)” and inserting “paragraph (3)”;

(E) in subparagraph (G), by striking “subparagraph (F)” and inserting “paragraph (6)”;

(F) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9), respectively, and indenting the paragraphs appropriately; and

(G) in paragraph (5) (as so redesignated)—

(i) in the matter preceding clause (i), by striking “class” and inserting “category”;

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately; and

(iii) in subparagraph (B) (as so redesignated), by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and indenting the clauses appropriately;

(2) in subsection (c)—

(A) by striking paragraph (2);

(B) in paragraph (1), by striking “class”

each place it appears and inserting “category”;

(C) by striking the subsection designation and heading and all that follows through “Subject” in the matter preceding clause (i) of paragraph (1)(A) and inserting the following:

“(c) INCLUSION FOLLOWING ASSESSMENT.—

“(1) DATE OF INCLUSION.—Subject”;

(D) by redesignating subparagraph (B) as paragraph (2);

(E) in paragraph (1) (as so designated)—

(i) in the matter preceding clause (i), by striking “subsection (b)(1)” and inserting “subsection (b)”;

(ii) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively, and indenting the subparagraphs appropriately; and

(iii) in subparagraph (D) (as so redesignated), by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and indenting the clauses appropriately; and

(F) in paragraph (2) (as so redesignated), by striking “this paragraph” and inserting “this subsection”;

(3) in subsection (d)—

(A) by striking “classes” each place it appears and inserting “categories”;

(B) by striking “class” each place it appears and inserting “category”;

(C) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “subsection (b)(1)” and inserting “subsection (b)”;

(ii) in subparagraph (L), by striking “subsection (b)(1)(F)” and inserting “subsection (b)(6)”;

(4) in subsection (e)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “subsection (b)(1), (c)(1)” and inserting “subsection (b), (c)”;

(B) by striking “class” each place it appears and inserting “category”;

(5) by adding at the end the following:

“(g) REPORTING REQUIREMENTS.—

“(1) THRESHOLD FOR REPORTING REQUIREMENTS.—

“(A) IN GENERAL.—

“(i) THRESHOLD.—Subject to subparagraph (C), the threshold for reporting under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) shall be met if, for a facility, the aggregate of the sums of quantities described in clause (ii) is not less than 100 pounds.

“(ii) SUMS OF QUANTITIES DESCRIBED.—The sums of quantities referred to in clause (i) are—

“(I) the sum of the quantities of substances and categories of substances described in subsections (b), (c), and (d)(3) manufactured by a facility;

“(II) the sum of the quantities of substances and categories of substances de-

scribed in subsections (b), (c), and (d)(3) processed by a facility; and

“(III) the sum of the quantities of substances and categories of substances described in subsections (b), (c), and (d)(3) otherwise used by a facility.

“(B) METHOD OF REPORTING.—After a threshold determination described in subparagraph (A)(i) has been made, a toxic chemical release form shall be reported separately for each substance or category of substances described in subsections (b), (c), and (d)(3) for which a facility conducted a manufacturing, processing, or other use activity.

“(C) REVISIONS.—Not later than 5 years after the date on which a perfluoroalkyl or polyfluoroalkyl substance or category of perfluoroalkyl or polyfluoroalkyl substances is included in the toxics release inventory under subsection (b), (c), or (d)(3), the Administrator shall—

“(i) determine whether revision of the threshold, category, or threshold and category under subparagraph (A)(i) is warranted for the substance or category of substances; and

“(ii) if the Administrator determines a revision to be warranted under clause (i), initiate a revision under section 313(f)(2) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(f)(2)).

“(2) LIMITATIONS.—

“(A) CONDITIONAL ADDITION TO LIST OF LOWER THRESHOLDS FOR CHEMICALS OF SPECIAL CONCERN.—The Administrator shall revise section 372.28 of title 40, Code of Federal Regulations (or successor regulations), to add a perfluoroalkyl or polyfluoroalkyl substance or category of perfluoroalkyl or polyfluoroalkyl substances described in subsection (b), (c), or (d)(3) to that section unless the Administrator, in accordance with paragraph (1)(C), revises the threshold for reporting that substance or category of substances to 10,000 pounds or greater.

“(B) NOTIFICATION ABOUT TOXIC CHEMICALS.—A perfluoroalkyl or polyfluoroalkyl substance or category of perfluoroalkyl or polyfluoroalkyl substances described in subsection (b), (c), or (d)(3) shall not be eligible for the exemption from supplier notification under section 372.45(d)(1) of title 40, Code of Federal Regulations (or successor regulations).

“(C) REVISIONS.—Not later than 5 years after the date on which a perfluoroalkyl or polyfluoroalkyl substance or category of perfluoroalkyl or polyfluoroalkyl substances is included in the toxics release inventory under subsection (b), (c), or (d)(3), the Administrator shall—

“(i) determine whether revision of the supplier notification requirement under section 372.45 of title 40, Code of Federal Regulations (or successor regulations), is warranted for the substance or category of substances; and

“(ii) if the Administrator determines a revision to be warranted under clause (i), initiate a revision pursuant to section 328 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11048).”

(b) CONFORMING AMENDMENTS.—Section 313(c)(2) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023(c)(2)) is amended—

(1) by striking “subsections (b)(1), (c)(1)” and inserting “subsections (b), (c)”;

(2) by striking “2019” and inserting “2019 (15 U.S.C. 8921)”.

**SA 3869.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year

2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**Subtitle —Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins**

**SEC. 1. SHORT TITLE.**

This subtitle may be cited as the “Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act of 2021”.

**SEC. 2. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISEASES ASSOCIATED WITH EXPOSURE TO BURN PITS AND OTHER TOXINS.**

(a) IN GENERAL.—Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 1119. Presumption of service connection for certain diseases associated with exposure to burn pits and other toxins**

“(a) PRESUMPTION OF SERVICE CONNECTION.—(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title, a disease specified in paragraph (2) becoming manifest in a veteran described in paragraph (3) shall be considered to have been incurred in or aggravated during active military, naval, or air service, notwithstanding that there is no record of evidence of such disease during the period of such service.

“(2) The diseases specified in this paragraph are the following:

“(A) Asthma that was diagnosed after service in a country or territory for which a medal described in paragraph (3) was awarded.

“(B)(i) Head cancer of any type.

“(ii) Neck cancer of any type.

“(iii) Respiratory cancer of any type.

“(iv) Gastrointestinal cancer of any type.

“(v) Reproductive cancer of any type.

“(vi) Lymphoma cancer of any type.

“(vii) Lymphomatic cancer of any type.

“(viii) Kidney cancer.

“(ix) Brain cancer.

“(x) Melanoma.

“(C) Chronic bronchitis.

“(D) Chronic obstructive pulmonary disease.

“(E) Constrictive bronchiolitis or obliterative bronchiolitis.

“(F) Emphysema.

“(G) Granulomatous disease.

“(H) Interstitial lung disease.

“(I) Pleuritis.

“(J) Pulmonary fibrosis.

“(K) Sarcoidosis.

“(L) Any other disease listed under subsection (a)(2) of section 1116 of this title or for which a presumption of service connection is warranted pursuant to regulations prescribed under section subsection (b)(1) of such section.

“(M) Any other disease with respect to which final regulations have been prescribed under subsection (c)(3).

“(3) A veteran described in this paragraph is any veteran who on or after August 2, 1990, was awarded any of the following:

“(A) The Afghanistan Campaign Medal.

“(B) The Armed Forces Expeditionary Medal.

“(C) The Armed Forces Reserve Medal with M-device.

“(D) The Armed Forces Service Medal.

“(E) The Global War On Terrorism Expeditionary Medal.

“(F) The Inherent Resolve Campaign Medal.

“(G) The Iraqi Campaign Medal.

“(H) The Southwest Asia Service Medal.

“(b) PROCESS TO ADD DISEASES THROUGH WRITTEN PETITION.—(1) In the case that the Secretary receives a written petition from an interested party to add a disease to the list of diseases specified in subsection (a)(2), not later than 90 days after the date of receipt of such petition, the Secretary shall request a determination by the National Academies of Sciences, Engineering, and Medicine (referred to in this section as the ‘National Academies’) with respect to whether there is a positive association between—

“(A) the exposure of humans to one or more covered toxins; and

“(B) the occurrence of the disease in humans.

“(2) For purposes of this subsection, the term ‘interested party’ includes a representative of—

“(A) a congressionally chartered veterans service organization;

“(B) an organization that—

“(i) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

“(ii) serves veterans or members of the Armed Forces; and

“(iii) has continuously operated for a period of five years or more preceding the date of the submittal of the written petition under paragraph (1);

“(C) a collective bargaining agent for civilian employees of the United States Government;

“(D) a nationally recognized medical association;

“(E) the National Academies; or

“(F) a State or political subdivision of a State.

“(c) DETERMINATIONS BY NATIONAL ACADEMIES.—(1) If the Secretary receives a determination described in paragraph (2), not later than 180 days after receipt of such determination, the Secretary shall—

“(A) publish in the Federal Register proposed regulations to add the disease covered by the determination to the list of diseases specified in subsection (a)(2);

“(B) publish in the Federal Register, and submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives—

“(i) the decision of the Secretary not to publish such proposed regulations; and

“(ii) the basis for such decision, including specific medical science refuting the determination; or

“(C) publish in the Federal Register a decision that insufficient evidence exists to take action under subparagraph (A) or (B).

“(2) A determination described in this paragraph—

“(A) is a determination by the National Academies that there is a positive association between—

“(i) the exposure of humans to one or more covered toxins; and

“(ii) the occurrence of the disease in humans; and

“(B) may be made pursuant to—

“(i) a request from the Secretary under subsection (b); or

“(ii) an agreement between the Secretary and the National Academies under section 3 of the Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act of 2021.

“(3)(A) Not later than 180 days after the date on which the Secretary publishes any proposed regulations under paragraph (1)(A) for a disease, the Secretary shall prescribe final regulations for that disease.

“(B) Such regulations shall be effective on the date of issuance.

“(d) REFERENCE TO NATIONAL ACADEMIES.—In the case that the Secretary enters into an agreement with another organization as described in section 3(h)(1) of the Presumptive Benefits for War Fighters Exposed to Burn Pits and Other Toxins Act of 2021, any reference in this section to the National Academies shall be treated as a reference to the other organization.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘covered toxin’ includes the following:

“(A) Any toxic chemical or toxic fume.

“(B) Hazardous waste, mixed waste, solid waste, or used oil (as those terms are defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

“(C) Radiological waste.

“(D) Any other carcinogen.

“(2) The term ‘veterans service organization’ means an organization recognized by the Secretary for the representation of veterans under section 5902 of this title.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(2) WRITTEN PETITIONS.—With respect to a written petition described in section 1119(b)(1) of title 38, United States Code, as added by subsection (a), that was received by the Secretary of Veterans Affairs before the effective date described in paragraph (1), the Secretary shall make a request of the National Academies of Sciences, Engineering, and Medicine under such section, as so added, not later than 90 days after such effective date.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 38, United States Code, is amended by inserting after the item relating to section 1118 the following new item:

“1119. Presumption of service connection for certain diseases associated with exposure to burn pits and other toxins.”.

(d) CONFORMING AMENDMENT.—Section 1113 of such title is amended by striking “or 1118” each place it appears and inserting “1118, or 1119”.

**SEC. 3. AGREEMENT WITH THE NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE CONCERNING THE EXPOSURE OF HUMANS TO BURN PITS AND OTHER TOXINS.**

(a) AGREEMENT.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine (referred to in this section as the “National Academies”) to perform the services covered by this section.

(2) TIMING.—The Secretary shall seek to enter into the agreement described in paragraph (1) not later than 60 days after the date of the enactment of this Act.

(b) REVIEWS OF SCIENTIFIC EVIDENCE.—

(1) IN GENERAL.—Under an agreement between the Secretary and the National Academies, the National Academies shall review and summarize the scientific evidence, and assess the strength thereof, concerning the association between the exposure of humans to covered toxins and each disease suspected to be associated with such exposure.

(2) REVIEWS UPON REQUEST.—Under an agreement between the Secretary and the National Academies under this section, the National Academies shall conduct a review described in paragraph (1) in response to each request made by the Secretary under section 1119(b)(1) of title 38, United States Code, as added by section 2(a).

(c) SCIENTIFIC DETERMINATIONS CONCERNING DISEASES.—

(1) IN GENERAL.—For each disease reviewed under subsection (b), the National Academies shall determine (to the extent that available scientific data permit meaningful determinations) whether there is a positive association between the exposure of humans to one or more covered toxins and the occurrence of the disease in humans, taking into account the strength of the scientific evidence and the appropriateness of the statistical and epidemiological methods used to detect the association.

(2) SUBMISSIONS FOR REVIEWS UPON REQUEST.—Under an agreement between the Secretary and the National Academies under this section, not later than 270 days after the date on which the Secretary transmits a request to the National Academies with respect to a disease under section 1119(b)(1) of title 38, United States Code, as added by section 2(a), the National Academies shall submit to the Secretary the determination made with respect to that disease under paragraph (1).

(d) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—

(1) IN GENERAL.—Under an agreement between the Secretary and the National Academies under this section, the National Academies shall make any recommendations it has for additional scientific studies to resolve areas of continuing scientific uncertainty relating to the exposure of humans to covered toxins.

(2) CONSIDERATIONS.—In making recommendations for additional scientific studies, the National Academies shall consider—  
(A) the scientific information that is available at the time of the recommendation;

(B) the value and relevance of the information that could result from additional studies; and

(C) the feasibility of carrying out such additional studies.

(e) SUBSEQUENT REVIEWS.—Under an agreement between the Secretary and the National Academies under this section, the National Academies shall—

(1) conduct as comprehensive a review as is practicable of the evidence referred to in subsection (b)(1) that became available since the last review of such evidence under this section; and

(2) make determinations and estimates on the basis of the results of such review and all other reviews conducted for the purposes of this section.

(f) REPORTS.—

(1) INITIAL REPORT.—

(A) IN GENERAL.—Under an agreement between the Secretary and the National Academies under this section, not later than 540 days after the date of the enactment of this Act, the National Academies shall submit to the Secretary and the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the activities of the National Academies under the agreement.

(B) ELEMENTS.—The report submitted under subparagraph (A) shall include the following:

(i) The determinations described in subsection (c)(1).

(ii) An explanation of the scientific evidence and reasoning that led to such determinations.

(iii) Any recommendations of the National Academies under subsection (d).

(2) PERIODIC UPDATES.—Under an agreement between the Secretary and the National Academies under this section, not less frequently than once every two years, the National Academies shall submit to the Secretary and the Committee on Veterans' Af-

fairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives an updated report on the activities of the National Academies under the agreement.

(g) LIMITATION ON AUTHORITY.—The authority to enter into agreements under this section shall be effective for a fiscal year to the extent that appropriations are available.

(h) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—

(1) IN GENERAL.—If the Secretary is unable within the period prescribed in subsection (a)(2) to enter into an agreement with the National Academies on terms acceptable to the Secretary, the Secretary shall seek to enter into such an agreement with another appropriate scientific organization that—

(A) is not part of the Government;  
(B) operates as a not-for-profit entity; and  
(C) has expertise and objectivity comparable to that of the National Academies.

(2) TREATMENT.—If the Secretary enters into an agreement with another organization as described in paragraph (1), any reference in this section, section 4, and section 1119 of title 38, United States Code, as added by section 2(a), to the National Academies shall be treated as a reference to the other organization.

(i) COVERED TOXIN DEFINED.—In this section, the term "covered toxin" has the meaning given that term in section 1119(e) of title 38, United States Code, as added by section 2(a).

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Veterans Affairs such sums as may be necessary to carry out this section.

**SEC. 4. ACCESS OF THE NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE TO INFORMATION FROM FEDERAL AGENCIES.**

(a) IN GENERAL.—Upon request by the National Academies of Sciences, Engineering, and Medicine (referred to in this section as the "National Academies"), the head of any Federal agency with relevant information shall provide to the National Academies information in the possession of the agency that the National Academies determines useful in conducting a review under section 3(b).

(b) FEDERAL AGENCY DEFINED.—In this section, the term "Federal agency" means any agency as that term is defined in section 551 of title 5, United States Code.

**SEC. 5. PRESUMPTION RELATING TO PERSONAL INJURY OF CERTAIN FEDERAL EMPLOYEES.**

(a) IN GENERAL.—Section 8102 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) In this subsection, the term 'covered employee' means an employee of the Department of State, the Department of Defense, or an element of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) who, on or after August 2, 1990, carried out the job responsibilities of the employee for not fewer than 30 total days in a country or territory while the United States was conducting a contingency operation (as defined in section 101 of title 10) in that country or territory.

"(2) Disability or death from a disease described in paragraph (2) of such section suffered by a covered employee is deemed to have resulted from personal injury sustained while in the performance of the duty of the covered employee, whether or not the covered employee was engaged in the course of employment when the disability or disability resulting in death occurred."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on

the date that is 180 days after the date of enactment of this Act.

(c) RULE OF CONSTRUCTION.—Subsection (c) of section 8102 of such title, as added by subsection (a), shall not be construed to apply to a contractor of a Federal department or agency.

**SA 3870.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

**SEC. 530C. AUTHORIZATION OF CLAIMS BY MEMBERS OF THE ARMED FORCES AGAINST THE UNITED STATES THAT ARISE FROM SEX-RELATED OFFENSES.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 163 of title 10, United States Code, is amended by inserting after section 2733a the following new section:

**"§ 2733b. Claims arising from sex-related offenses**

"(a) IN GENERAL.—Consistent with this section and under such regulations as the Secretary of Defense shall prescribe under subsection (d), the Secretary may allow, settle, and pay a claim against the United States for personal injury or death of a claimant arising from—

"(1) a sex-related offense committed by a covered individual; and

"(2)(A) the negligent failure to prevent such sex-related offense; or

"(B) the negligent failure to investigate such sex-related offense.

"(b) REQUIREMENT FOR CLAIMS.—A claim may be allowed, settled, and paid under subsection (a) only if—

"(1) the claim is filed by the claimant who is the victim of the sex-related offense, or by an authorized representative on behalf of such claimant who is deceased or otherwise unable to file the claim due to incapacitation;

"(2) the claimant was a member of an armed force under the jurisdiction of the Secretary of a military department at the time of the sex-related offense;

"(3) the claim is presented to the Department in writing within two years after the claim accrues;

"(4) the claim is not allowed to be settled and paid under any other provision of law; and

"(5) the claim is substantiated as prescribed in regulations prescribed by the Secretary of Defense under subsection (d).

"(c) PAYMENT OF CLAIMS.—(1) If the Secretary of Defense determines, pursuant to regulations prescribed by the Secretary under subsection (d), that a claim under this section in excess of \$100,000 is meritorious, and the claim is otherwise payable under this section, the Secretary may pay the claimant \$100,000 and report any meritorious amount in excess of \$100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

"(2) Except as provided in paragraph (1), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

“(d) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to implement this section.

“(2) Regulations prescribed by the Secretary under paragraph (1) shall include the following:

“(A) Policies and procedures to ensure the timely, efficient, and effective processing and administration of claims under this section, including—

“(i) the filing, receipt, investigation, and evaluation of a claim;

“(ii) the negotiation, settlement, and payment of a claim; and

“(iii) such other matters relating to the processing and administration of a claim, including an administrative appeals process, as the Secretary considers appropriate.

“(B) A process through which any claimant who pursues an administrative appeal of a claim will be provided with an opportunity to participate in a live hearing regarding such appeal, which may be attended by the claimant in-person or remotely through electronic means.

“(C) Uniform standards consistent with generally accepted standards used in a majority of States in adjudicating claims under chapter 171 of title 28 (commonly known as the ‘Federal Tort Claims Act’) to be applied to the evaluation, settlement, and payment of claims under this section without regard to the place of occurrence of the sex-related offense giving rise to the claim or the military department of the covered individual, and without regard to foreign law in the case of claims arising in foreign countries, including uniform standards to be applied to determinations with respect to—

“(i) whether an act or omission by a covered individual was negligent or wrongful, considering the specific facts and circumstances;

“(ii) whether the personal injury or death of the claimant was caused by a negligent or wrongful act or omission of a covered individual;

“(iii) requirements relating to proof of duty, breach of duty, and causation resulting in compensable injury or loss, subject to such exclusions as may be established by the Secretary of Defense; and

“(iv) calculation of damages, except that any standard establishing a maximum limit on noneconomic damages may not limit such damages to less than \$800,000.

“(D) A requirement that any maximum limit on noneconomic damages shall be not less than \$800,000.

“(E) Such other matters as the Secretary considers appropriate.

“(3) In order to implement expeditiously the provisions of this section, the Secretary may prescribe the regulations under this subsection—

“(A) by prescribing an interim final rule; and

“(B) not later than one year after prescribing such interim final rule and considering public comments with respect to such interim final rule, by prescribing a final rule.

“(e) LIMITATIONS ON ATTORNEY FEES.—(1) No attorney shall charge, demand, receive, or collect for services rendered, fees in excess of 20 percent of any claim paid pursuant to this section.

“(2) Any attorney who charges, demands, receives, or collects for services rendered in connection with a claim under this section any amount in excess of the amount allowed under paragraph (1), if recovery be had, shall be fined not more than \$2,000, imprisoned not more than one year, or both.

“(3) The United States shall not be liable for any attorney fees of a claimant under this section.

“(f) ANNUAL REPORT.—Not less frequently than annually until 2026, the Secretary of

Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report—

“(1) indicating the number of claims processed under this section;

“(2) indicating the resolution of each such claim; and

“(3) describing any other information that may enhance the effectiveness of the claims process under this section.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘covered individual’ means a member of the armed forces or an employee of the Department of Defense.

“(2) The term ‘sex-related offense’ has the meaning given that term in section 1044e(h) of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 163 of such title is amended by inserting after the item relating to section 2733a the following new item:

“2733b. Claims arising from sex-related offenses.”.

(b) INTERIM BRIEFING ON DEVELOPMENT OF REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the development of regulations under section 2733b(d) of title 10, United States Code, as added by subsection (a)(1).

(c) CONFORMING AMENDMENTS.—

(1) Section 2735 of such title is amended by inserting “2733b.” after “2733a.”.

(2) Section 1304(a)(3)(D) of title 31, United States Code, is amended by inserting “2733b.” after “2733a.”.

(d) EFFECTIVE DATE AND TRANSITION PROVISION.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim filed under section 2733b of such title, as added by subsection (a)(1), on or after January 1, 2022.

(2) TRANSITION.—Any claim filed in calendar year 2021 shall be deemed to be filed within the time period specified in section 2733b(b)(2) of such title, as so added, if it is filed within three years after it accrues.

**SA 3871.** Ms. WARREN (for herself, Mr. DAINES, Mr. KING, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title X, insert the following:

**SEC. \_\_\_\_.** **RECOGNITION AND HONORING OF SERVICE OF INDIVIDUALS WHO SERVED IN UNITED STATES CADET NURSE CORPS DURING WORLD WAR II.**

Section 106 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(g)(1)(A) Service as a member of the United States Cadet Nurse Corps during the period beginning on July 1, 1943, and ending on December 31, 1948, of any individual who was honorably discharged therefrom pursuant to subparagraph (B) shall be considered active duty for purposes of eligibility and entitlement to benefits under chapters 23 and 24 of this title (including with respect to

headstones and markers), other than such benefits relating to the interment of the individual in Arlington National Cemetery provided solely by reason of such service.

“(B)(i) Not later than one year after the date of the enactment of this subsection, the Secretary of Defense shall issue to each individual who served as a member of the United States Cadet Nurse Corps during the period beginning on July 1, 1943, and ending on December 31, 1948, a discharge from such service under honorable conditions if the Secretary determines that the nature and duration of the service of the individual so warrants.

“(ii) A discharge under clause (i) shall designate the date of discharge. The date of discharge shall be the date, as determined by the Secretary, of the termination of service of the individual concerned as described in that clause.

“(2) An individual who receives a discharge under paragraph (1)(B) for service as a member of the United States Cadet Nurse Corps shall be honored as a veteran but shall not be entitled by reason of such service to any benefit under a law administered by the Secretary of Veterans Affairs, except as provided in paragraph (1)(A).

“(3) The Secretary of Defense may design and produce a service medal or other commendation, or memorial plaque or grave marker, to honor individuals who receive a discharge under paragraph (1)(B).”.

**SA 3872.** Ms. WARREN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VIII, add the following:

**SEC. 821. DIVERSITY AND INCLUSION REPORTING REQUIREMENTS FOR COVERED CONTRACTORS.**

(a) IN GENERAL.—Subchapter V of chapter 325 of title 10, United States Code, is amended by inserting after section 4892 the following new section:

“**§ 4893. Diversity and inclusion reporting requirements for covered contractors**

“(a) COVERED CONTRACTOR REPORTS.—

“(1) IN GENERAL.—The Secretary of Defense shall require each covered contractor awarded a major contract to submit to the Secretary of Defense by the last day of each full fiscal year that occurs during the period of performance of any major contract a report on diversity and inclusion.

“(2) ELEMENTS.—Each report under paragraph (1) shall include, for the fiscal year covered by the report—

“(A) a description of each major contract with a period of performance during the fiscal year covered by the report, including the period of performance, expected total value, and value to date of each major contract;

“(B) the total value of payments received under all major contracts of each covered contractor during such fiscal year;

“(C) the total number of participants in the board of directors of each covered contractor, nominees for the board of directors of the covered contractor, and the senior leaders of the covered contractor, disaggregated by demographic classifications

“(D) with respect to employees of each covered contractor—

“(i) the total number of such employees; and

“(ii) the number of such employees (expressed as a numeral and as a percentage of the total number), identified by membership in demographic classification and major occupational group;

“(E) the value of first-tier subcontracts under each major contract entered into during such fiscal year;

“(F) with respect to employees of each covered subcontractor—

“(i) the total number of such employees;

“(ii) the number of such employees (expressed as a numeral and as a percentage of the total number), identified by membership in demographic classification and major occupational group;

“(G) whether the board of directors of the covered contractor has, as of the date on which the covered contractor submits a report under this section, adopted any policy, plan, or strategy to promote racial, ethnic, and gender diversity among the members of the board of directors of the covered contractor, nominees for the board of directors of the covered contractor, or the senior leaders of the covered contractor; and

“(H) a description of participation by the contractor in diversity programs, to include hours spent, funds expended in support of, and the number of unique relationships established by each such diversity program.

“(b) ANNUAL SUMMARY REPORT.—

“(1) REPORT REQUIRED.—Not later than 60 days after the first day of each fiscal year, the Secretary shall submit to the congressional defense committees a report summarizing the reports submitted pursuant to subsection (a).

“(2) ELEMENTS.—Each report under paragraph (1) shall include—

“(A) an index of the reports submitted pursuant to subsection (a);

“(B) a compilation of the data described in such subsection, disaggregated as described in such subsection;

“(C) an aggregation of the data provided in such reports; and

“(D) a narrative that analyzes the information disclosed in such reports and identifies any year-to-year trends in such information.

“(c) PUBLIC AVAILABILITY.—Each report required under this subsection shall be posted on a single publicly available website of the Department of Defense and made available in a machine-readable format that is downloadable, searchable, and sortable.

“(d) DEFINITIONS.—In this section:

“(1) COVERED CONTRACTOR.—The term ‘covered contractor’ means a contractor awarded a major contract.

“(2) COVERED SUBCONTRACTOR.—The term ‘covered subcontractor’ means a subcontractor performing a subcontract that is one of the 10 highest aggregate value subcontracts under a major contract.

“(3) DEMOGRAPHIC CLASSIFICATIONS.—The term ‘demographic classifications’ means classifications by race, gender, veteran status, or ethnicity.

“(4) DIVERSITY PROGRAM.—The term ‘diversity program’ means—

“(A) a program conducted under section 3904 of this title;

“(B) a mentor-protege relationship established under section 831 of the National Defense Authorization Act for Fiscal Year 1991;

“(C) a program conducted under section 250 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283; 10 U.S.C. 2192a note); or

“(D) any other program designated by the Secretary of Defense as designed to increase the diversity of the workforce of the defense industrial base.

“(5) MAJOR CONTRACT.—The term ‘major contract’ has the meaning given the term in section 2342 of this title.

“(6) MAJOR OCCUPATIONAL GROUP.—The term ‘major occupational group’ means a major occupational group as defined by the Bureau of Labor Statistics.

“(7) SENIOR LEADER.—The term ‘senior leader’ means—

“(A) the president of a covered contractor;

“(B) any vice president in charge of a principal business unit, division, or function of a covered contractor;

“(C) any other officer of a covered contractor who performs a policy-making function; or

“(D) an individual responsible for the direct or indirect management of more than 200 individuals.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter V of chapter 325 of title 10, United States Code, is amended by adding after the item related to section 4892 the following:

“4893. Diversity and inclusion reporting requirements for covered contractors.”.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on July 1, 2022, and shall apply with respect to contracts entered into on or after July 1, 2022.

**SA 3873.** Ms. WARREN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXVIII, add the following:

**SEC. 2825. AUTHORITY TO CONVEY AND LEASE LAND AND FACILITIES TO SUPPORT CONTRACTS WITH FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.**

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2688 the following new section:

**“§ 2689. Conveyance and lease of land and facilities to support contracts with federally funded research and development centers**

“(a) LEASE OF LAND, FACILITIES, AND IMPROVEMENTS.—(1) The Secretary of a military department may, for no consideration, lease land, facilities, and improvements to a federally funded research and development center sponsored by, and contracted to, the Department of Defense to further the purposes of such contract for a period not to exceed 30 years.

“(2) Any lease entered into under paragraph (1) with a federally funded research and development center with respect to which the Department of Defense has entered into a contract described in such paragraph shall terminate upon the termination or nonrenewal of such contract.

“(b) CONVEYANCE OF FACILITIES AND IMPROVEMENTS.—(1) The Secretary of a military department may, for no consideration, convey to a federally funded research and development center sponsored by, and contracted to, the Department of Defense ownership of facilities and improvements located on land leased to such center to further the purposes of such contract.

“(2) Ownership of facilities and improvements conveyed under paragraph (1) shall re-

vert to the United States upon the termination or nonrenewal of the underlying land lease.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 159 of such title is amended by inserting after the item relating to section 2688 the following new item:

“2689. Conveyance of land and facilities to support contracts with federally funded research and development centers.”.

**SA 3874.** Ms. WARREN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title XXVIII, add the following:

**SEC. 2836. TREATMENT OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS UNDER MILITARY CONSTRUCTION LAWS.**

Section 2801 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) This chapter does not apply to real property, including facilities, leased to, furnished to, or placed under the responsibility of (through a base support agreement or other contractual mechanism) a federally funded research and development center that is sponsored by and contracted to the Department of Defense for the performance of research, development, and rapid prototyping.

“(2) On real property leased, conveyed, or made available to a federally funded research and development center from the Department of Defense, such center may use funds for research and development under a base support agreement or other contractual mechanism to construct new infrastructure and facilities, demolish leased facilities, and repair and refurbish leased facilities consistent with the requirements of such agreement or other contractual mechanism.”.

**SA 3875.** Ms. WARREN submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title III, add the following:

**SEC. 376. MODIFICATION OF DEFINITION OF COMMUNITY INFRASTRUCTURE FOR PURPOSES OF MILITARY BASE REUSE STUDIES AND COMMUNITY PLANNING ASSISTANCE.**

Clause (i) of section 2391(e)(4)(A) of title 10, United States Code, is amended to read as follows:

“(i) is located—

“(I) off of a military installation; or

“(II) on land under the jurisdiction of the Department of Defense under a long-term

real estate instrument, such as a lease or easement, that provides support to a military installation; and”.

**SA 3876.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

**SEC. 318. CONSIDERATION UNDER DEFENSE ENVIRONMENTAL RESTORATION PROGRAM FOR STATE-OWNED FACILITIES OF THE NATIONAL GUARD WITH PROVEN EXPOSURE OF HAZARDOUS SUBSTANCES AND WASTE.**

(a) **DEFINITION OF STATE-OWNED NATIONAL GUARD FACILITY.**—Section 2700 of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4) The term ‘State-owned National Guard facility’ means land owned and operated by a State when such land is used for training the National Guard pursuant to chapter 5 of title 32 with funds provided by the Secretary of Defense or the Secretary of a military department, even though such land is not under the jurisdiction of the Department of Defense.”.

(b) **AUTHORITY FOR DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.**—Section 2701(a)(1) of such title is amended, in the first sentence, by inserting “and at State-owned National Guard facilities” before the period.

(c) **RESPONSIBILITY FOR RESPONSE ACTIONS.**—Section 2701(c)(1) of such title is

amended by adding at the end the following new subparagraph:

“(D) Each State-owned National Guard facility being used for training at the time of actions leading to contamination by hazardous substances or pollutants or contaminants.”.

#### APPOINTMENT

The **PRESIDING OFFICER.** The Chair, pursuant to Public Law 116-260, on behalf of the Republican Leader of the Senate, appoints the following individual as a member of the Smithsonian American Women’s History Museum Advisory Council: Bridget Bush of Kentucky.

#### ORDERS FOR TUESDAY, OCTOBER 26, 2021

Mr. SCHUMER. Finally, Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, October 26; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; that upon the conclusion of morning business, the Senate proceed to executive session to resume consideration of the Cobb nomination; further, that if cloture is invoked on the Cobb nomination, the Senate immediately vote on cloture on the Williams and Giles nominations, in the order listed; and that the Senate recess following the cloture vote on the Giles nomination until 2:15 p.m. to allow for the weekly caucus meetings; further,

that at 2:30 p.m., the Senate vote on the motions to invoke cloture on the Nachmanoff and Nagala nominations, in the order listed; and that if cloture is invoked on any of the nominations during Tuesday’s session, all postcloture time be considered expired and the confirmation votes be at a time to be determined by the majority leader in consultation with the Republican leader; finally, if any nominations are confirmed during Tuesday’s session, the motions to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate’s action.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SCHUMER. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:23 p.m., stands adjourned until Tuesday, October 26, 2021, at 10 a.m. tomorrow.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate October 25, 2021:

##### DEPARTMENT OF LABOR

DOUGLAS L. PARKER, OF WEST VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

##### THE JUDICIARY

MYRNA PEREZ, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.